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JAN 22 2007 Attorney Docket No.: P-3059-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): ORR, Michael et al.

Examiner: REFAI, RAMSEY

Serial No.: 09/788,545

Group Art Unit: 2152

Filed: February 21, 2001

Title: A SYSTEM AND METHOD TO ACCELERATE CLIENT/ SERVER
INTERACTIONS USING PREDICTIVE REQUESTS

PRE-APPEAL BRIEF AND REQUEST FOR REVIEW

Mail Stop A1
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Pre-Appeal Brief and Request for Review is submitted together with a Notice of Appeal in response to the final Office Action dated August 22, 2006 issued by the United States Patent and Trademark Office in connection with the above-identified Application and further in response to the Advisory Action mailed on December 12, 2006. A response to the August 22, 2006 Office Action was due November 22, 2006. Applicants are concurrently filing a Petition for a 2-Month Extension of Time, including the required fee. Therefore, a response is due January 22, 2007. Accordingly, this Pre-Appeal Brief is being timely filed.

Kindly consider the following remarks:

Remarks/Arguments begin on page 2 of this paper.

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REMARKS

I. Introduction

In the final Office action, the Examiner rejected all pending claims in the present application, claims 1-22 and 33, under 35 U.S.C. § 102(a). In particular, the Examiner rejected claims 1-22 and 33 as being anticipated by Berger (U.S. Patent No. 5,978,841). In addition, the Examiner rejected claim 10 under 35 U.S.C. § 112 first paragraph.

On October 18, 2006, Applicants filed a response to the final Office action, including amendments to the claims and arguments.

The Examiner has issued on November 2, 2006 an Advisory Action Before the Filing of an Appeal Brief in which the Examiner has noted that the response filed on October 18, 2006 failed to place the application in condition for allowance because the amendment to Claim 10 represented a change in the scope which therefore required further search and considerations by the Examiner.

On November 22, 2006, Applicants a response to the Advisory Action of November 2, 2006, in which Claim 10 was cancelled without prejudice or disclaimer, in order to move the application to allowance.

The Examiner has issued on December 18, 2006 a second Advisory Action Before the Filing of an Appeal Brief in which the Examiner has noted that the request for reconsideration did not place the application in condition for allowance because the Applicants' arguments include argument that Berger teaches away from the claimed invention where such argument is allegedly "not germane" to a rejection under Sec. 35 USC 102.

Thus, the Examiner maintained his rejection of the claims, seeming to raise one main issue. The Examiner contends that Berger teaches all the elements of the claimed invention, including "**to generate one or more predictive requests for one or more objects, wherein the one or more objects are needed in order to complete said requested web page**", as claimed in the claims of the present invention.

As set forth below, the system and method of Berger do not disclose or teach all the elements of the rejected claims. Specifically, Berger fails to disclose "to generate one or more

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predictive requests for one or more objects, wherein the one or more objects are needed in order to complete said requested web page". Therefore, Berger does not disclose or teach all the elements of the rejected claims.

II. Arguments

A. The Cited Reference Does Not Disclose Every Element of Claims 1, 11

Berger teaches "[t]he invention is directed to ...including ... a process, running on the computer, predicting anticipated user retrievals from the information system and retrieving one or more anticipated user retrieval requests **before they are requested by the user**". (col. 3, lines 1-8, emphasis added). Berger further discloses "preloading information identified by at least one information identifier **before it is requested by a user**" (col. 3, lines 12-14, emphasis added). Berger further teaches "predicting anticipated user retrievals over the network and retrieving one or more anticipated user retrieval requests **before they are requested by the user**" (col. 3, lines 21-23, emphasis added). Berger further teaches "extracting information identifiers from a user requested retrieval and for preloading information identified by at least one information identifier **before it is requested by a user**" (col. 3, lines 29-32, emphasis added).

A more detailed explanation of the prediction mechanism disclosed in Berger is given in, for example, col. 4, lines 46-52: "Look-ahead caching process (LCP) permits information to be preloaded **in advance of a user request** to achieve a user perceived improvement in response time. **Look-ahead caching is only useful if the preloaded information is subsequently requested by the user.** An LCP uses information previously requested to improve the probability that a future user request will match preloaded information." (emphasis added). Thus, the prediction mechanism disclosed by Berger, according to the cited paragraphs above, is a look-ahead caching mechanism which is 'only useful if the loaded information is subsequently requested by the user'. This limitation, which is stated by Berger, teaches that the Berger's mechanism may, as well, load information which is not required and was not requested by the user. Thus, the Berger's prediction mechanism is different from the prediction mechanism of the present invention. Accordingly, Berger fails

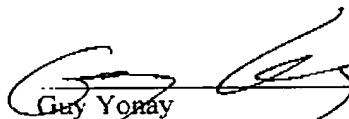
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to disclose or teach at least "to generate one or more predictive requests for one or more objects, wherein the one or more objects are needed in order to complete said requested web page", as recited in independent claims 1 and 11.

III. Conclusion

In view of the foregoing amendments and remarks, pending independent claims 1 and 11 and independent claims 2-10, 12-21 and 33 are deemed to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Respectfully submitted,



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